



14 leaves from

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City of Boston

Public Works Department
Permits Division
Room 714 Boston City Hall
Boston MA, 02201
(617) 635-4910

City Of Boston Sidewalk Café Requirements

CITY OF BOSTON SIDEWALK CAFÉ REQUIREMENTS

Petition

Requesting permission to install a Sidewalk Café in front of address of restaurant location. Petition must be signed by owner of Café.

Plans

The plan submitted must be 24" x 36" with 3/4" border and include the following information: minimum 11"x17"

- ❖ A civil engineer plan showing layout of café with appropriate fencing and showing a minimum 48" clearance from existing structures.
- ❖ Drawn on an engineer scale.
- ❖ The plan shall also have the following information:
 - a. Title Box for the Public Works Department
 - b. Signature lines for the following:
 - i. Public Improvement Commission, Chief Engineer
 - ii. Checked for General Design and Conformity to City Standards
 - iii. Commissioner of Public Works Department
 - iv. Provide a signature line inside the title box for Division Engineer
 - c. Date, name of plans and name of company that prepared the plan.
(A sample plan will be provided)

Other Requirements

- ❖ If the location of the Café is leased, the Petitioner should provide:
 - a. a Certified Lease Agreement; and
 - b. a letter of no objection from the Owner.
- ❖ Approval letter from ADA; and
- ❖ If the Café is located within a landmark district or has been designated a landmark, then a Certificate of Appropriateness from the Boston Landmarks Commission shall be provided.
- ❖ Letter from Mayor's Office of Neighborhood Services Coordinator.
- ❖ Letter from the Public Works Department – street lighting section.
- ❖ Letter from Registered engineer regarding the structural soundness of the areaway below the sidewalk, if any exists.
- ❖ Letters from the utilities stating that they have no objection to the placing of the Café.
(A list of utilities will be provided)

License and Maintenance Agreement must be completed with the Law Department before proposed sidewalk café is scheduled for the first meeting before the Public Improvement Commission. Sample provided by Michelle O'Neill PWD 635-4961

GOV DOCS

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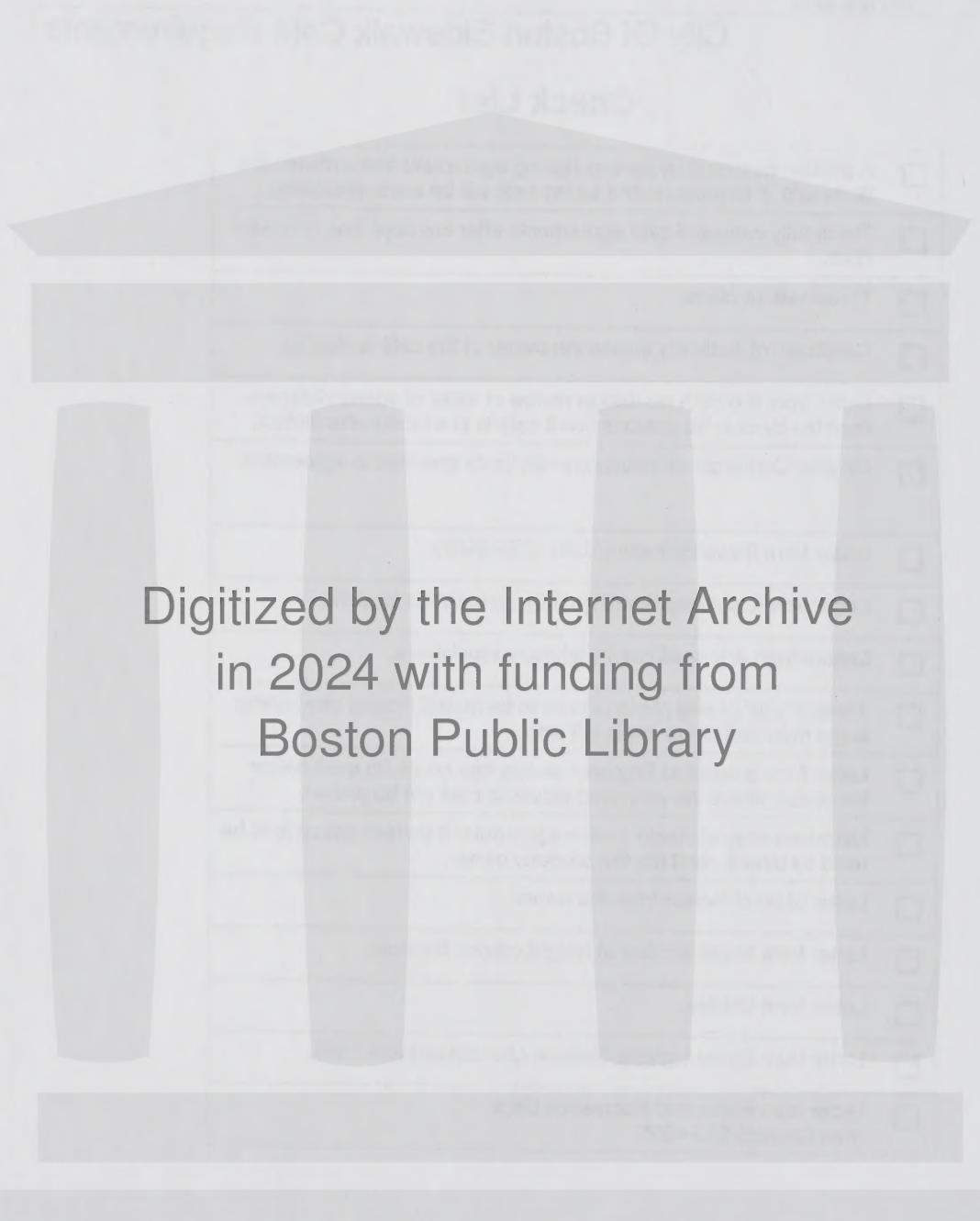
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Check List

<input type="checkbox"/> A petition executed by person signing agreement that includes the limits and # of persons and tables café will be accommodating .
<input type="checkbox"/> Three fully executed café agreements after law dept. has reviewed draft.
<input type="checkbox"/> Three sets of plans.
<input type="checkbox"/> Certificate of Authority unless the owner of the café is signing.
<input type="checkbox"/> Letter from the BRA re: design review or letter of appropriateness from the landmarks commission if café is in a landmarks district.
<input type="checkbox"/> Original Certificate of Insurance with limits specified in agreement.
<input type="checkbox"/> Letter from Steve Spinetto (ADA) (635-3682).
<input type="checkbox"/> Letter from Licensing Board granting permission for café.
<input type="checkbox"/> Letters from any or all neighborhood associations.
<input type="checkbox"/> Three 8"x10" glossy photo of area to be rented; frontal view, sharp angle right and sharp angle left side.
<input type="checkbox"/> Letter from a certified Engineer stating that no vaults exist below the space where the proposed sidewalk café will be placed.
<input type="checkbox"/> Notarized copy of Rental Lease agreement if surface space is to be used by tenant , and not the property owner.
<input type="checkbox"/> Letter of no objection from the owner.
<input type="checkbox"/> Letter from Mayor's office of Neighborhood Services.
<input type="checkbox"/> Letter from Utilities.
<input type="checkbox"/> Letter from Street Lighting Division (Joe Banks) 635-7555.
<input type="checkbox"/> Letter from Parks and Recreation Dept (Ken Crasco) 635-4505.



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Sidewalk Café

THIS LICENSE, MAINTENANCE AND INDEMNIFICATION AGREEMENT is made as of this 1st day of May, 2000, by and between the CITY OF BOSTON, acting by and through its Public Improvement Commission, hereinafter the "City," and Burn, Inc., d/b/a Tremont 647 (hereinafter the "Licensee"), with a place of business at 647 Tremont Street, Boston, MA 02118, and with executive offices at the same address.

WITNESSETH THAT:

WHEREAS, Licensee is the owner and operator of the restaurant known as the "Tremont 647," which is located at the owner's premises at 647 Tremont Street, Boston, Massachusetts, Boston Proper (hereinafter the "Site"); and

WHEREAS, the Licensee petitioned the Public Improvement Commission for the issuance of a license for the purpose of placing a [temporary] sidewalk café (hereinafter "Café") directly in front of the Site; and

WHEREAS, the Public Improvement Commission, by a vote taken at the Public Hearing held on November 18, 1999, approved Licensee's petition for a license; and

WHEREAS, the Licensee's engineer, Charles Chaloff Consulting Engineers, Inc., 374 Congress Street, Boston, Massachusetts 02210 ("Charles Chaloff"), has, as required by the Licensor, provided the Licensor with a letter that states that no area ways exist below the Site; and

WHEREAS, the Licensor requires that this Agreement be entered into as a condition of the license for the Café.

NOW THEREFORE, in consideration of the license given by the Licensor to the Licensee, the Licensee agrees as follows:

I. TERM OF LICENSE:

Unless otherwise terminated by the Licensor, the license to have a Café on the Licensor's property shall be temporary, and the license will be issued for the period of May 1, 2000 to October 31, 2000.



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Sidewalk Café

II. LICENSED AREA:

1. Location:

- a. The Café shall be located directly in front of and contiguous to the Site. The exact location of the Café is shown on an architect's plan entitled #647 Tremont Street Sidewalk Café, prepared by Thomas R. Huth, and dated November, 1999, which plan is on file with the office of the Public Improvement Commission for the City of Boston.
- b. The Licensee shall have the obligation to prevent encroachment onto space not covered by this license. To accomplish this goal, the Licensee shall install a non-movable and temporary system of enclosure around the Café, with removable bollards.

2. Dimensions:

- a. The Café measures 186 square feet. At all times the Licensee shall insure that the Café extends out to the curb cut no less than six (6) feet, and no more than the area allowed by this License.
- b. The Licensee shall ensure that, at all times, there will be at least four (4) feet of sidewalk between the boundary of the Café and the tree grates, if any. If there are no tree grates or other street furniture, then there shall be at least four (4) feet of sidewalk between the boundary of the Café and the curb cut.
- c. The Lessor reserves the right to require that more than four (4) feet of sidewalk is made available during certain hours of the day, or days of the week.

3. Pedestrian/Patron Access/Use:

- a. Licensee shall provide safe and adequate access to patrons making use of the Café and to pedestrians making use of the public way in or near the Café or Site.
- b. The Licensee shall ensure that no alcohol is sold or consumed outside of the Café and Site.
- c. The Café shall be constructed and maintained so as not to constitute a hazard or danger to persons making use of the Café or Site and the public way.

4. Removal:

- a. The Licensee shall ensure that all structures comprising the Café, including but not limited to chairs, tables, fencing, bollards and planters will be easily removed during periods of non-use, and at the expiration of this license.
- b. The Licensee shall remove all fixtures, chairs, tables, fencing, bollards, planters and any other items related to or connected to the Café from the public way on the last effective date of this license.



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Sidewalk Café

III. FEES AND COSTS:

1. To Be Paid By The Licensee:

- a. The Licensee at its own cost and expense shall maintain the Site and Café.
- b. The Licensee shall bear all financial responsibility for any and all improvements to the public way, both within and surrounding the Café, which are in the opinion of any City department or agency, required for the proper and safe operation of the Café.
- c. The Licensee shall bear all costs and expenses related to the construction and maintenance of any utilities and other amenities relative to this license and operation of the Café.
- d. The Licensee shall, prior to its entry upon, or use or occupancy of the Site, and prior to installing or constructing any part of the Café, have paid any and all fees required to be paid. No permit fees or other fees will be waived.
- e. Monthly Rental Fee:

- (i) The license fee for the month of XXXXX shall be _____ DOLLARS (\$_____.00). Thereafter, the monthly license fee shall be _____ DOLLARS and ____ / _____. It shall be due and payable on the first day of each month.
- (ii) The XXXX payment is due upon the signing of this License. All subsequent payments are due on the first day of each month. If payment is not received by the 6th day of the month, the Lessor shall have the right to terminate this license, and order the Licensee to remove the Café from the Lessor's property.

f. Escalation Clause:

- (i) The monthly rental fee is subject to change on a yearly basis. Increase will be based on the prior year's change in the consumer price index.

2. By The Lessor:

- a. The Lessor shall not be required to make any improvements to the public way that will be occupied by the Café, or expend any money for the benefit of the Licensee.



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IV. HOURS OF OPERATION:

The Licensing Board for the City of Boston ("Board") shall establish the hours of operation and any other restrictions, limitations, etc. it deems appropriate. The decision of the Board is incorporated by reference, and a copy of it shall be attached hereto as Exhibit A.

V. INDEMNIFICATION AND INSURANCE REQUIREMENTS:

1. The Licensee shall indemnify and save harmless the Lessor against all claims and demands of all persons or entities for damages, costs, expenses or compensation for, on account of, or in any way growing out of the use and occupancy by the Licensee, his patrons, and or invitees of the Site and Café, or by reason of any act or neglect of said Licensee, its officers, agents, and employees, or by any reason of any violation of any term or specification contained in this Agreement or in any license or permit necessary in the said use and occupancy of the Site or Café.
2. The Licensee shall obtain and maintain liability insurance for the period stated in Section I above. The minimum amount of insurance shall be in the amount of One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate. A copy of the Certificate of Insurance is attached hereto as Exhibit B.
3. Prior to the issuing of any permits by the Public Works Department, the Licensee shall provide the Lessor with an original Certificate of Insurance that names the City as an Additional Insured.

VI. NOTICE REQUIREMENTS:

1. All notices shall be in writing and shall be by certified or registered mail, return receipt requested, addressed as follows:

If the Lessor at:

Public Improvement Commission
c/o City of Boston Public Works Department
City Hall-Room 714
Boston, MA 02201
Attention: Executive Secretary

And if to the Licensee at:

Burn, Inc.
d/b/a Tremont 647
647 Tremont Street
Boston, MA 02118
Attention: Andy Husbands



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Sidewalk Café

VII. TERMINATION:

1. Unless otherwise terminated by the Licensor, the license to have a Café on the Licensor's property shall be temporary, running from May 1, 2000 through October 31, 2000.
2. Notwithstanding any language to the contrary, the Licensor reserves the right to terminate this Agreement and to require the Licensee to remove the Café from the Site if and when it deems it necessary.

VIII. ADDITIONAL TERMS AND CONDITIONS:

1. The Café shall be used solely for the purpose of dining. Consumption of alcoholic beverages is permissible but only if authorized by the Licensing Board.
2. The Café shall not be used solely for the purpose of serving alcohol.
3. The Licensee shall comply with all applicable federal, state and local rules, regulations and laws, and any amendments thereof.
4. In the event the Site is located within a landmarks district, the Licensee shall obtain a letter from the appropriate landmarks commission which sets forth approval of the Café and any furniture used therewith. A copy of said letter shall be attached hereto as Exhibit C.
5. If the Site is not located in a landmark district, then the Licensee shall obtain design approval from the Boston Redevelopment Authority, located on the 9th Floor of City Hall in Boston, Massachusetts. A copy of the letter is attached hereto as Exhibit C.
6. The Licensee represents that it has obtained the approval of the Commission of Persons with Disabilities. The Licensee shall provide a copy of the letter from said Commission prior to obtaining the license to operate.
7. The Licensee shall ensure that the Site remains in a clean and sanitary condition, and that the Licensee shall be solely responsible for the removal of trash from the Site.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement
as of the day and year first above written.

CITY OF BOSTON, acting by
and through its Public
Improvement Commission

Joseph F. Casazza, Chairman

Michael J. Galvin, Member

Gary Moccia, Member

BURN, INC.

By: _____
Andy Husbands
Its President

By: _____
Dennis A. Quilty
Its Attorney

APPROVED AS TO FORM:

Assistant Corporation Counsel / Date



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Sidewalk Café

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

April _____, 2000

Then appeared before me Joseph F. Casazza, Chairman of the Public Improvement Commission of the City of Boston, and acknowledged that he executed the foregoing instrument as the free act and deed of the City of Boston, acting by and through its Public Improvement Commission.

Notary Public

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

April 2000 _____, 2000

Then appeared before me Michael J. Galvin, Commissioner of the Public Improvement Commission of the City of Boston, and acknowledged that he executed the foregoing instrument as the free act and deed of the City of Boston, acting by and through its Public Improvement Commission.

Notary Public

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

April _____, 2000

Then appeared before me Gary Moccia, Commissioner of the Public Improvement Commission of the City of Boston, and acknowledged that he executed the foregoing instrument as the free act and deed of the City of Boston, acting by and through its Public Improvement Commission.

Notary Public

My commission expires:



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Sidewalk Café

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

April _____, 2000

Then appeared before me Andy Husbands and acknowledged that he executed the foregoing instrument as his free act and deed and the free act and deed of Andy Husbands.

Notary Public

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

April _____, 2000

Then appeared before me Dennis A. Quilty, attorney, and acknowledged that he executed the foregoing instrument as his free act and deed and the free act and deed of Dennis A. Quilty, attorney..

Notary Public

My commission expires:

M066475@SD:Café Agreement/LenoxFinal



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Sidewalk Cafe Petition

Date _____

To the Public Improvement Commission:

The undersigned respectfully petitions

(Name of Petitioner/Licensee)

Petitioner:

Signature: _____

Address:

Phone Number: _____

CITY OF BOSTON
PUBLIC IMPROVEMENT COMMISSION

SIDEWALK CAFES

The Public Improvement Commission finds that the establishment of sidewalk cafes will promote the use and enjoyment of the City's public space; will enhance tourism within the City, and increase handicapped accessibility to restaurants.

ENABLING LEGISLATION

A. 11-6.3 --- USE OF PUBLIC WAYS

The Commissioner shall have the jurisdiction vested by statute in the Board of Street Commissioners¹ in relation to the planting and removal of trees in the public ways and to the use of public ways for any temporary obstruction or projection in, under or over the same; but such jurisdiction shall only be exercised with the written approval of the Mayor in each instance. The Commissioner shall also have the powers and perform the duties conferred or imposed by statute on the Board of Street Commissioners in relation to the use of parts of public ways for the storage and sale of merchandise.

Conditions and standards for occupation of the public way:

1. Every cafe shall be temporary in nature and designed so that the entire cafe structure and its appurtenances including but not limited to chairs, tables, fencing, bollards and planters can be easily removed during periods of non-use. Furthermore, the City reserves the right to require the user to remove the sidewalk cafe if and when it determines it necessary.

Public Process

2. Every owner/application (hereinafter "User") for a sidewalk cafe will be subject to Community review and approval both through the Licensing Board and Public Improvement Commission hearings.

Location of Sidewalk Cafe

3. The sidewalk cafe must be appurtenant and contiguous to the main restaurant facility. It may not extend beyond the frontage face of the restaurant. To provide safe adequate circulation for patrons, the width of the sidewalk cafe shall be no less than six [6] 1 feet from the facade of the restaurant. However, the City reserves the right to require that more than four (4) feet of sidewalk be made available during certain hours of the day, or days of the week in order to accommodate increased pedestrian traffic.

4. To prevent additional encroachment onto public space and to contain the sale of alcohol within the cafe area, the sidewalk cafe must be separated from the pedestrian walk space with a non-movable system of enclosure, such as decorative fencing with removable bollards.

Limitation on Use

¹ The power granted to the Commissioner of Public Works under II -6.3 shall be interpreted by the Commissioner to mean that a license will be granted only after a public hearing and approval vote by the members of the Public Improvement Commission.

5. No portion of a sidewalk cafe may be used for any purpose other than dining or circulation. Outdoor cafes must serve dinners. No one shall be seated in an outdoor cafe for the sole purpose of drinking alcohol. The hours of operation for outdoor cafes shall be determined by the Licensing Board for the City of Boston and will be incorporated into the lease agreement with the Public Improvement Commission.

Compliance with Laws, Statutes, etc.

6. All sidewalk cafes must comply with all applicable federal, state and local laws and regulations, including the Americans with Disabilities Act. A minimum unobstructed passageway from end of use [parallel to street] of not less than four [4] feet in width at all points will be required.

Landmarks Commission Approval

7. The Landmark Commission shall have aesthetic review responsibility for cafe enclosures, tables, chairs, and accessories in areas under their jurisdiction; all other proposals shall be subject to BRA design review. All cafe enclosures will be subject to review and approval by the Commission of Persons with Disabilities It shall be the User's responsibility to provide to the Public Improvement Commission, before the scheduled public hearing, written proof that it has obtained all requisite permits, approval from said agencies.

8. The User who applies for a sidewalk cafe license shall bear all financial responsibility for any and all improvements necessary to the public space, both within and surrounding the sidewalk cafe area. At no time and for no reason shall public funds be expended for improvements designed to benefit the User. In addition a license agreement between the User and the Public Improvement Commission shall be required. The Agreement shall addresses liability, maintenance and trash removal concerns, and set forth the fair market value rental cost² for the leasing of the public space.

Vaults

9. The User shall provide the Public Improvement Commission with a written statement from a Certified engineer that certifies that no vaults exist below the space where the proposed sidewalk cafe will be place. In the event that there is an underground vault, the User shall not obtain a license for the sidewalk cafe until such time as the Inspectional Services Department is satisfied that the there is no risk that the sidewalk cafe will collapse.

Length of Lease

10. The temporary lease for the use of the public space shall be seasonal from May 1st through October 30th, of each year.

Fee For Leasing Public Space

11. Taking into consideration that the City is to incur NO costs relative to the sidewalk cafe, the User understands that construction, maintenance, utilities and other amenities relative to this lease of public space and operation of the sidewalk cafe shall be the responsibility of the User. The rental fee for use of the public space shall be determined by the Public Improvement Commission. Said fee is subject to change on a yearly basis.

12. Licenses issued for sidewalk cafes by the Public Improvement Commission will require that the user adhere to all applicable rules, regulations and laws governing the use of public space, and the operation of the cafe. Permits issued relative to sidewalk cafes will be subject to renewal on a yearly basis. The City reserves the right to revoke the license for any reason and at any time.

² The fee shall be determined by the City on a yearly basis. The fee is subject to change yearly.

13. By accepting this license the licensee specifically acknowledges that the licensee shall be solely responsible for any and all costs of whatever kind and nature, and the City shall not be responsible or liable for any such costs or be requested to reimburse the licensee for such costs in any respect or to any extent.

Public Improvement Commission process regarding sidewalk cafes.

1. Petition of property owner for placement of sidewalk cafe on public property directly abutting his restaurant or his tenants' restaurant.

2. Notarized copy of rental lease agreement if surface space is to be used by tenant and not the property owner.

3. Three 8 " x 10 " glossy photos of area to be rented; frontal view, sharp angle right side and sharp angle left side.

4. Three copies of a plan, signed by a registered engineer or surveyor, detailing proposed occupancy of public space; showing placement of all street furniture associated with cafe as well as existing street furniture [telephone poles, street lights, hydrants, traffic lights, newsboxes, trees, signs, telephones, parking meters, bus shelters, etc.]. Plan must clearly show separation between cafe space and pedestrian space noting dimensions of each on plan. Plan should also display or stipulate the storage area for the cafe furniture and appurtuances and detail Utility cut-off points, manholes, vaults, etc. in sidewalk area to be rented.

(a) If a surface vault {areaway} exists an affidavit by a professional engineer must be submitted attesting to the structural adequacy and condition of the vault {areaway} below the sidewalk.

5. If the petition for a proposed cafe meets the standards set by the Commission for use of public space, the matter will be placed on the agenda for a new business hearing. The applicant will be directed to the Licensing Board for the City of Boston for community review and approval. The approval process before the Public Improvement Commission and the Licensing Board for the City of Boston shall be simultaneous. Approval by either the Public Improvement Commission or the Licensing Board shall be given subject to the approval of the other.

6. Indemnification Standards: That the Applicant hereby covenants with the City to indemnify and save harmless the City against all claims and demands of all persons for damages, costs, expenses or compensation for, on account of, or in any way growing out of the use and occupancy by the Applicant, his patrons, and or invitees of the licenses area, or by reason of any act or neglect of said Applicant, its officers, agents, and employees, or by any reason of any violation of any term or specification contained in this Agreement or in any license or permit necessary in the said use and occupancy of the Licensed Premises.

7. Insurance Language: The Applicant's ability to operate the Sidewalk Caf6 shall be conditioned upon the Applicant obtaining and maintaining liability insurance for the period covered by the license. The minimum amount of insurance shall be in the amount of One Million [\$1,000,000.00] Dollars per occurrence and Three Million [\$3,000,000.00] Dollars in the aggregate. The Certificate of Insurance shall name the City of Boston as an additional insured, and the Original Certificate shall be provided to the Executive Secretary of the Public Improvement Commission prior to obtaining any permits.

8. Process: The Applicant shall obtain a sample copy of an approved License, Maintenance and Indemnification Agreement [Agreement] from the Executive Secretary of the Public Improvement Commission. The Agreement is to be used as a model which shall be conformed to the particular fact, situation of the applicant. The Agreement is to be submitted to the Department of Public Works for approval by the Law Department.

9. Once the applicant has received all necessary City approvals the License agreement for use of the public space will be signed by the members of the Public Improvement Commission.

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